S.B.CIVIL WRIT PETITION NO.1539/2003

DATE OF ORDER ::: 5.7.2006

PRESENT

HON'BLE MR. PRAKASH TATIA, J.

Mr. OP Rajpurohit, for the petitioner.

Mr. S Saruparia) for the respondents.
Mr. LD Khatri)

- - - - -

Heard learned counsel for the parties.

Learned counsel for the petitioner submits that originally the claim petition was submitted by mother of deceased victim who died in a road accident. During the pendency of claim petition, the mother of victim also died. The petitioners are the sons of the deceased claimant Heeri Devi, mother of the victim. Due to the death of Heeri Devi, they should have been impleaded as party in the claim petition and for that purpose, an application was submitted but the said application was dismissed by Motor Accident Claims Tribunal vide impugned order dated 29.1.2003.

It appears that the Tribunal was under the impression that only those persons who are the legal heirs of deceased could have maintained or proceeded with the claim petition, ignoring the fact that the petitioners submitted application as legal representatives of already party claimant.

In view of the above, learned counsel for the respondents also have no objection in impleading the petitioners as parties.

It has been pointed out that appellant no.2 Keshar Singh had died during the pendency of this writ petition, therefore, he need not be impleaded as party.

In view of the above reasons, the writ petition is allowed, the order of the Motor Accident Claims Tribunal, Rajsamand dated 29.1.2003 is set aside and the petitioners no.1 and 3 – Devi Singh and Bhanwar Singh are impleaded as party in the claim petition.

However, it is made clear that since the claimants have been impleaded as party at final arguments stage, the stage when the original claimant Heeri Devi died, therefore, they shall have right to argue the matter and the entire proceedings shall not be reopened.

(PRAKASH TATIA), J.

S.Phophaliya